

BLM Fee Demo Program
Imperial Sand Dunes Recreation Area (ISDRA)
History of Program

Written testimony submitted to the House Subcommittee
on National Parks, Recreation, and Public Lands.

Thursday, May 6, 2004

by

Roy Denner, President & CEO
Off-Road Business Association (ORBA)

Geography:

The Imperial Sand Dunes Recreation Area (ISDRA) in the southeastern corner of California is quite likely the most actively utilized motorized recreation area in the country. This is certainly true in terms of vehicle operating hours per acre available. Originally an area of almost 160,000 acres, the area remaining for off-highway vehicle recreation after the 1994 California Desert Protection Act (CDPA) was approximately 118,000 acres. A significant part of the ISDRA was made a wilderness area - disallowing motorized recreation - by that legislation. It was Congress's intent at the time that the remaining portions of the ISDRA that were not turned into wilderness by the CDPA remain available for motorized recreation.

Then, more recently, the BLM was sued by the Sierra Club, the Center for Biological Diversity, and Public Employees for Environmental Responsibility for not adequately protecting species within the remaining area open to vehicles. The area available for motorized recreation was then cut in half as a result of a settlement made by the BLM the day before the current U.S. President was inaugurated in the year 2000. Supposedly, the new closures are temporary until the BLM consults with USFWS and develops a new management plan for the area. The area has been closed for 4 years now! As the area available for motorized recreation at the ISDRA has reduced drastically in size, the popularity of this type of recreation has literally exploded. On major holiday weekends, this area sees as many as 200,000 visitors. The annual total is over 1.4 million. In California, alone, the OHV recreation industry is estimated to have a \$9 billion economic impact.

User Reaction to Fees:

With the implementation of the fee demo program at the ISDRA on January 1, 1999, three funding sources were available for the operation and maintenance of the facility – Federally appropriated funding; grants from the California Off-Highway Motor Vehicle trust fund; and fee demo dollars collected. There was a loud outcry from the ISDRA user community when the fee demo program was announced. Many people who recreate at the ISDRA believe that they have already paid once for the right to use the federal recreation area through the payment of their Federal taxes. Some suggest that they have paid again for the right to use the area through the payment of off-road vehicle license fees and off-road fuel tax fees collected at the State level. Funds collected through the State of California's Off-Highway Motorized Vehicle Recreation (OHMVR) program have traditionally been directed to the ISDRA through the States grant program. Now, with fee demo, users are expected to pay again for the right to recreate at the ISDRA by paying user camping fees.

Advisory Technical Review Team:

The BLM, in an effort to diffuse the uproar, agreed to establish a Technical Review Team (TRT) composed of user representatives and gateway community representatives. The TRT's primary function is to advise the ISDRA BLM manager on the expenditure of user fees collected. This arrangement enables TRT members to serve as a buffer between the BLM and the recreationists who are being required to pay camping fees at the ISDRA. *Attached to this testimony is an article that I wrote when the new management plan for the ISDRA was completed titled "Fees In The Dunes – A Necessary Evil?"* This article explains how, under the BLM's cost recovery mandate, any costs necessary to run a particular recreation area that are not provided by other sources must be made up from user fees. The article also attempts to rationalize that, if users want to see the operation stay in business, they must expect to pay a share of the tab. Of course, no one expected that user fees would subsequently triple at the ISDRA! It became difficult for me and other

members of the TRT to rationalize the fee increase. *Attached is a letter from the ISDRA Technical Review Team to Secretary of the Interior Gale Norton regarding the Fee Demo Program at the ISDRA.*

The Fee Demo Program at the ISDRA:

With that background information, let me address what has taken place with the ISDRA fee demo program since its inception.

Historically the ISDRA received over \$1 million dollars each year in grants from the CA State Off-Highway Motorized Vehicle trust fund to help with operation and maintenance of the recreation area. This grant to the BLM was deemed to be appropriate since so many Californians recreate at the ISDRA. An OHMVR Commission, composed of concerned citizens, decides on grants to be made from the State fund each year. The current OHMVR Commissioners, who have been appointed by CA State Legislators have, over the last few years, directed State grants away from operation and maintenance activities to support conservation and environmental issues. As I speak to you, not one dollar of the California OHMVR trust fund goes to assisting operation and maintenance of the ISDRA – a loss of funding to the tune of over \$1 million!

The total Federally allocated annual funding that goes to the ISDRA operation is \$200,000. When compared to appropriated funding provided to other Federal recreation areas with similar visitor counts, the ISDRA is obviously seriously under funded! This most popular hi-intensity visitor use area gets the least appropriated funding. To add fuel to the fire, the BLM and the Forest Service recently published a promotional document titled “Discover US – Great Escapes – a dozen trips – America’s Public Lands” that promotes the 12 most desirable recreation areas in the country and, you guessed it, the ISDRA is listed as number 9 in that publication. So, while the Federal Government is encouraging people from across the U.S. to visit the ISDRA, not nearly enough funding to manage the recreation area is being provided!

So, here we are with a recreation area that, by the BLM's admission, is one of the most popular in the US. Total appropriated funding is \$200,000. Other sources of funding are non-existent. The actual cost to operate this area is around \$4 million per year. Without the fee demo program, this operation would be out of business.

But, that's not all!

New Recreation Area Management Plan for the ISDRA and its Species Monitoring Requirement:

The BLM recently prepared a new Recreation Area Management Plan (RAMP) for the ISDRA. One of the provisions of this Plan is the requirement for an intensive monitoring effort for various species of concern in the ISDRA. The RAMP calls for funding to be provided from three sources which include 1) appropriated dollars; 2) the State OHV grant program; and 3) fee demo money. The cost of this effort is almost \$1 million. The BLM decided that it would be beneficial to perform this monitoring effort before the new management plan was approved. They argued that it would be necessary to satisfy the U.S. Fish & Wildlife Service's Carlsbad Office. That USFWS office has been working on a Biological Opinion for the RAMP for many months with no commitment for a decision at any particular date.

Where did the funding for this million-dollar effort come from? Obviously, it didn't come out of the 200,000 appropriated dollars. Grant funds from the State OHV Trust Fund have been eliminated! So the full-blown monitoring effort – without concern for economic or user impact – is being conducted and is being paid for out of fee demo money. No public input or TRT vote on this use of fee demo money was solicited. No negotiations took place to consider using existing information or to consider paring down the effort to minimize the cost of the task. In fact, the very first expenditure was a high-performance long-travel 4-seater \$60,000 sand car to transport survey participants and an enclosed trailer to transport the vehicle. No one even considered renting a 4-wheel drive, 9-passenger Suburban with paddle tires for the four-month period of the monitoring survey! *I have attached an article that I wrote regarding the use of user fees to pay for the BLM mandated effort at the ISDRA titled "Here's My Checkbook – You Fill in the Name and the Amount".*

The reduction of dollars available to operate the ISDRA coupled with unregulated expenditures – such as the million-dollar species monitoring program – will lead to even higher user fees for next season. We will be asking visitors – who have not seen a single significant improvement in facilities or recreation opportunities in at least 4 years – to step up and pay for environmental efforts that may ultimately be used to further reduce OHV recreation opportunities at the ISDRA. Sort of like being asked to pay for the material to build your own gallows!

Congressional Intent for Fee Demo:

When Interior Assistant Secretary Lynn Scarlett testified last month it was pointed out that, when Congress established the Recreation Fee Demonstration program for several Federal Agencies in 1996, “it was the intent that the program allow participating agencies to retain a majority of recreation fees at the site collected and reinvest those fees into enhancing visitor facilities and services. This authority was deliberately broad and flexible to encourage agencies to experiment with their fee programs”.

Was it the intent of Congress in 1996 that the “flexibility” of the recreation fee program should allow managing Federal Agencies to use fees collected to conduct extensive arbitrary species monitoring studies while none of the fees are used for “enhancing visitor facilities and services” at a given recreation area? (The balance of fees collected at the ISDRA covers operation and maintenance). The BLM’s “flexible fee experimentation program” at the Imperial Sand Dunes Recreation Area may well lead to the ISDRA’s pricing itself out of the recreation market place and ultimate closure of the facility as a result of unreasonably high user fees coupled with the BLM’s effort to provide data (at user expense) on species that will give anti-access groups more ammunition to use in future lawsuits against the use of vehicles in the ISDRA.

Attached is my letter to Congressman Pombo, and a letter sent to Secretary of the Interior Gale Norton by the attorney for the American Sand Association, asking for help with the unfair utilization of user fees at the Imperial Sand Dunes Recreation Area.

Recommendation to Subcommittee:

How do we control this problem?

Recreationists nationwide believe that it is imperative that any fee program legislation adopted include a requirement that the bulk of the dollars collected from end users go to improving recreation opportunities on-the-ground at each facility. Wasn't this actually the intent of Congress when the fee demo program was established for Federal Agencies in 1996?

Furthermore, the people who recreate at Federal recreation sites should have some say – at a higher level than advisory – as to how their fees are spent! And, of course, this needs to somehow be compatible with the Endangered Species Act so that anti-access groups can't sue to force Agencies to use fees collected for environmental studies that can ultimately be used to close out recreation. This is precisely what's happening at the Imperial Sand Dunes Recreation Area.

As part of the Congressional Record, I respectfully request that this Subcommittee do a comprehensive review of how fees collected at the Imperial Sand Dunes Recreation Area are being utilized before establishing a new Federal Recreation Fee Program. I am convinced that this example of a fee program that has no controls and no user input will help prevent implementation of a National Program with similar pitfalls.

Recreation enthusiasts are, for the most part, reconciled to the idea that we need to pay to play. We just want to be assured that the bulk of the fees that we pay go to improving recreational opportunities.